City of Lafayette
City Council Special Meeting
Redevelopment Agency Special Meeting
MINUTES

Lafayette Community Center – Sequoia Room **April 27, 2009**
500 St. Mary's Road, Lafayette, California **5:45 p.m.**

1. CALL TO ORDER

Mayor Tatzin called the meeting to order at 5:45 p.m.

2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson and Councilmembers Anderson and Anduri

Absent: Councilmember Federighi

Staff: Staff: Steven Falk, City Manager; Ann Merideth, Community Development Director; Mala Subramanian, City Attorney; Lt. Mike Hubbard, Police Services Manager; Joanne Robbins, City Clerk

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Federighi/Andersson) to adopt the agenda. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None; Absent: Federighi).

4. PUBLIC COMMENTS - None

5. STAFF REPORT

A. Lt. Mike Hubbard, Police Services Manager

Implications to the City of Lafayette of District Attorney Robert Kochly's announcement that the DA will not be prosecuting most misdemeanors including:

- Any simple drug possession cases, including for methamphetamine, cocaine and heroin
- All non-DUI driving or traffic offenses
- Misdemeanor property crimes (e.g., vandalism, shoplifting)
- Simple assault or battery cases
- Trespassing or loitering cases

Lt. Mike Hubbard reported lack of resources and processing of charges by the District Attorney's office, discussed situations of hold and release of misdemeanor arrestees, review by police of associated crimes and links to those arrested and confirmed with Mayor Tatzin that minor traffic infractions and related matters would not be affected.

Mayor Tatzin questioned what percentage of misdemeanor arrests made last year would no longer be pursued by the District Attorney. Lt. Hubbard said this amounted to approximately 75% and mostly included driving on a suspended license which are not direct violations of the Vehicle

Code. The percentage would also not include DUI's, which accounted for 60%. He also discussed misdemeanor arrests which would not be prosecuted.

Vice Mayor Andersson suggested not advertising any change of operations, and Lt. Hubbard agreed and believed police should still follow existing procedures and submit report paperwork to the District Attorney, which may or may not be reviewed. Lt. Hubbard discussed options reviewed with other cities, discussed the cost of a District Attorney which was $125,000 a year in order to file cases, but this would not include the staff or attorneys who would be needed to take the case through prosecution. The second option discussed was cities having their City Attorneys file and prosecute misdemeanors, which is allowable through granting of authority. However, this is something cities did not want to do. The third option discussed was that a Charter City can establish an Office of Criminal Prosecution which allows City Attorneys to do filings of misdemeanors and felonies and act in the capacity of a criminal prosecutor.

Mayor Tatzin noted that the District Attorney's budget was done $1.6 million, but his budget reduction from last year was $1.9 million and he commented to the Mayor of Moraga that if he got the $1.9 million back, he could operate as he had. There were a number of vacant positions which constitutes the $1.6 million and there has been battle between the Board of Supervisors and District Attorney.

Also, in looking at the Contra Costa Times, it stated the County's Prop 172 funds were down, property tax revenues were down. However, the County does receive Prop 172 monies, which constitutes 40% of the District Attorney's funds. Another 40% comes from general fund revenue and the remaining comes from grants and other special funds. Recent information from sales tax is only down 3% as compared to what was forecast. Therefore, the game he did not want to play was to take on the County's responsibility with the City's money, as the City gets zero Prop 172 money, which was passed as part of an ERAF in the early 1990's. Cities are now penalized by ERAF and get nothing back. To him, this very much falls at the Board of Supervisors who set the priority for the budget.

Vice Mayor Andersson noted there is a 6% cut in expenditures, yet a 20% cut in services, which he felt was out of proportion. Lt. Hubbard further discussed violations for misdemeanors, jail time and release.

Mayor Tatzin noted that the Supreme Court ruled last week on a case regarding what is permissible in a vehicle search following a stop, and he questioned how this would affect what police does. Lt. Hubbard said he felt it would have profound effects. Law enforcement was able to search the entire car, and now if the driver is arrested, police can only search those areas accessible to the driver within arm's reach and the rest of the car would not be searchable. Also, some important case decisions came out regarding the towing of vehicles. It became common to have the car towed and stored after arresting the driver, and then an inventory search was done. Some of the more recent case law has said that cars cannot be towed as a result of an arrest, but left at their location. These two things would affect the amount of narcotics recoverable by law enforcement.

City Manager Falk said he has received emails regarding tomorrow's meeting and Mayors and Police Chief's are attending the Board of Supervisors' meeting. Regarding Supervisors' priorities, he agrees with the approach of putting the responsibility in the lap of Supervisors. He said he learned that the County was down to 3 patrol cars for unincorporated areas of the County, and Lt. Hubbard noted that the Council laid off 28 Deputy Sheriffs. Staffing levels on graveyard are such that Monday through Thursdays there will be 3 cars, and Friday through Sunday there will be 4

cars to handle the entire County area. Lt. Hubbard said graveyard supervision comes from the Martinez station and, in addition to reducing numbers of cars, they have reduced the types of calls officers respond to, and day shift has the same number of officers.

ACTION: The Council received and filed the report.

6. ADJOURNMENT

ACTION: It was M/S/C (Andersson/Anduri) to adjourn to the Special City Council Meeting at 6:15 p.m. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None; Absent: Federghi).

APPROVED:

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Don Tatzin, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk

City of Lafayette
City Council Special Meeting
Redevelopment Agency Special Meeting
MINUTES

Lafayette Community Center – Sequoia Room **April 27, 2009**
500 St. Mary's Road, Lafayette, California **6:15 p.m.**

1. CALL TO ORDER

Mayor Tatzin called the meeting to order at 6:15 p.m.

2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson and Anduri

Absent: Councilmember Federighi

Staff: Steven Falk, City Manager; Ann Merideth, Community Development Director; Mala Subramanian, City Attorney

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Andersson/Anderson) to adopt the agenda. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None; Absent: Federighi).

4. PUBLIC COMMENTS - None

B. CLOSED SESSION

A. Conference with Legal Counsel – Anticipated Litigation: Significant exposure to Litigation pursuant to Government Code section 54956.9(b) (1 Case)

Conference with Real Property Negotiators (Government Code Section 54956.8)
Property: APN 241-010-031 (Risa Road)
Agency Negotiator: Steven Falk, City Manager/Executive Director
Negotiating Parties: Davidson APN 241-010-031 (Risa Road)
Under Negotiation: Price and Terms of Payment

6. ADJOURNMENT

ACTION: It was M/S/C (Andersson/Federighi) to adjourn to the Special City Council Meeting at 6:30 p.m. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None; Absent: Federighi).

APPROVED:

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Don Tatzin, Mayor

ATTEST:

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Joanne Robbins, City Clerk

City of Lafayette
Special Meetings of
Lafayette City Council
Circulation Commission
Bicycle and Pedestrian Advisory Committee

MINUTES

Lafayette Community Center – Sequoia Room **April 27, 2009**
500 St. Mary's Road, Lafayette, California **6:30 p.m.**

1. CALL TO ORDER

Mayor Tatzin called the joint meeting to order at 6:30 p.m.

2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson and Anduri

Absent: Councilmember Federighi

Circulation Commission: Michael Ross, Chairperson; Commissioners Lynn Hiden, Gene Holit; Richard Hughes, Ellen Poling, Cindy Sevilla, Mary-Jane Wood

Bicycle and Pedestrian Advisory Committee: Committee members Claude Aiello and Rob May

Staff: ; Tracy Robinson, Administrative Services Director; Niroop Srivatsa, Planning & Building Services Manager;; Leah Greenblat, Transportation Planner; Mala Subramanian, City Attorney, Joanne Robbins, City Clerk

3. PLEDGE OF ALLEGIANCE – led by Mayor Tatzin

4. PUBLIC COMMENTS – None

5. ADOPTION OF AGENDA

ACTION: It was M/S/C (Anduri/Andersson) to approve the agenda. Vote: 3-0-1 (Ayes: Tatzin, Andersson, Anduri; Noes: None; Absent: Anderson, Federighi).

Convene Jointly with the Circulation Commission and the Bicycle and Pedestrian Advisory Committee

ACTION: It was M/S/C (Anderson/Andersson) to convene the joint session. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None; Absent: Federighi).

6. PRESENTATIONS

A. **Bicycle Pedestrian Advisory Committee**
Report on Goals and Accomplishments 2009
Recommendation: Receive and file.

BPAC Member Claude Aiello gave the report, stating many of their members were traveling and not able to be present. He reported on accomplishments, as follows:

- Downtown Bike Racks: As soon as the necessary business owner approvals are obtained, the racks will be installed the latter part of the summer at Squirrel's, Starbucks, Rising Loafer, and 360 Burrito.
- Bike Route Signing: The City received a grant to install the bikeways network signing which is a high priority. BPAC subcommittee has worked with staff to develop a signing plan. Feedback was received from the Circulation Committee, the City Council, and BPAC and they are looking forward to implementation.
- Bicycle Rodeo: Held last Sunday and was very successful in conjunction with Earth Day. They had about 100 children ranging in age from 7-10. Students from Stanley School conducted safety checks and adults oversaw paperwork and administrative processes.
- Bike to Work Day: Will be held May 14th and is in the process of being planned. They are looking for places to put signage. Every year they see more and more bicyclists.
- East Bay MUD Aqueduct Trail: The Bikeways Master Plan identifies this as a multi-purpose trail. BPAC was pleased to see it in the Downtown Strategy and they encourage the feasibility study, as it would take pressure off of Mt. Diablo Boulevard and would benefit all kinds of bicyclists.

2009 Goals: There would be various grants work, Bike to Work Day for 2009. He noted when riding down Mt. Diablo Boulevard, there is a false sense of security, and he discussed how people recognize the "sharrows" which benefit cyclists.

Regarding recommendations for the Lafayette/Moraga Trail, Ms. Greenblat reported that the Council submitted a letter and recommendations to the EBRPD but had not received back a response.

Public Comments:

LYNN HIDEN said a homeowner council boardmember mentioned that bike racks would go in front of Pizza Antica where people are dining, which was discouraged by the owners.

MR. AIELLO noted that the area was City property and in a red zone, and Ms. Greenblat said only one bike rack will be put in the location that holds two bikes. She said bikes might already be put up against the parking meter pole so she did not believe it would cause much of an impact.

CINDY SEVILLA questioned what recommendations had been made to the EBRPD. Ms. Greenblat noted that the issue went to the Circulation Commission and onto the Council; the recommendation requested that the District utilize its bike patrols and install additional signage and educational information about the Lafayette/Moraga Trail.

B. **Circulation Commission**
Report on Goals and Accomplishments 2009
Recommendation: Receive and file.

Commission members introduced themselves; Michael Ross, Chairperson; Commissioners Lynn Hiden, Gene Holit; Richard Hughes, Ellen Poling, Cindy Sevilla, Mary-Jane Wood. Chair Ross said the Commission feels that circulation of cars and people are important to any city and discussed accomplishments as follows:

2008 Accomplishments by the Circulation Commission:

- Analyzed the Downtown Employer-Employee Transportation Survey results;
- Prepared and distributed a Lafayette Commuter Guide to all downtown businesses;
- Completed the planning stages of the Stanley-Springbrook Traffic Calming and Safety Project;
- Amended the Master Walkways Plan to include a sidewalk project on Stanley-Springbrook;
- Improved multi-modal safety with the implementation of striping and signing improvements at the Glenside Drive (South) trail crossing and reducing the speed limit on Pleasant Hill Road south of Old Tunnel Road;
- Implemented a key recommendation of the Bikeways Master Plan by installing "shallows" on Mt. Diablo Boulevard;
- Participated in multi-jurisdictional transportation planning by reviewing and providing comments on the draft Lamorinda Action Plan, Central County Action Plan, and Bicycle and Pedestrian Issues and Options paper;
- Contributed to the implementation of Measure J by reviewing and commenting on the draft Implementation Guide;
- Participated in the Downtown Strategy process;
- Reviewed and provided comments on the Capital Improvement Program;
- Reviewed plans for capital improvement projects and development applications;
- Continued to incorporate the Bicycle and Pedestrian Advisory Committee into the Commission's work program;
- Continued working with individual neighborhoods on addressing circulation concerns

2009 Work Programs:

- Downtown Strategy
- Implementation of Lafayette Bicycle Plan
- Signage and Striping Projects
- 2009 Traffic Calming Prioritization
- CCTA Lamorinda Action Plan Update
- CCTA and Measure J implementation
- Information Outreach to Bicycling Community
- Bicycle Rodeo
- Bike to Work Day
- Lamorinda Fee and Finance Authority

Councilmember Anduri referred to the Moraga Boulevard Traffic Calming project and said many people forwarded letters about potential accidents. He questioned the results of the project. Mr. Ross said they installed bulb-outs as part of traffic calming and people are not used to things sticking out of the street and a motorist had hit one of the curbs. And since then, a couple of bicyclists had also run into them. He noted they have reflectors on them and curb paint, some bulb outs have plantings in them, and some are nicer than others. He said he has not received any negative comments thus far.

Councilmember Anderson referred to diagonal parking in front of the Lafayette Mercantile and questioned the existence of any issues. Mr. Ross said this was brought up at a previous meeting, as motorists cannot see bicyclists approaching when pulling out of diagonal parking. Lynn Hiden believed that the sharrows make people more mindful if one is on the street, but if motorists are backing out, they cannot see anything. Mr. Ross noted that there were other examples where the City has tried to address sight distance issues such as at FedEx/Kinkos where striping was done and between the 7-11 and Starbucks.

Councilmember Anderson said he knows there is a Bike and Walkways Map in the General Plan, but suggested that a one-page bike map could be made to help people understand the location of routes. Ms. Greenblat said the Bike Plan calls for putting out a bike map and staff is waiting until bike signing is implemented which will dramatically increase the routes that can be included on a map and help guide people through the various connections. She said the City does not have a complete inventory of the City's walkways so it would be hard to develop a walkway map although the Downtown Strategy effort did result in a more thorough inventory. Councilmember Anderson felt it would encourage people to bike to know there was a way to get to the Safeway or downtown and back which he felt would be a more pleasant experience.

Ms. Hiden referred to benches and said as a walker she could not sit at the trail. She noted the absence of benches which she thought would be a nice amenity for walkers. In addition, she commended Ms. Greenblat for her participation and work, which was echoed by all members.

Public Comments:

A public speaker said his Boy Scout Troop is interested in installing benches along some of the routes wherever they are needed and he questioned how to go about presenting a proposal to the City.

Mayor Tatzin suggested he bring their proposal to the Circulation Commission, and if done in the downtown, he should attend the Downtown Street Improvement Master Planning Committee (DSIMP). Ms. Greenblat agreed to put him in touch with both groups to discuss this item.

The same public speaker said he had requested the City include them in decision-making processes last year, especially given applications involving circulation and he thanked the City for doing this. He re-emphasized that this be again done as they feel circulation and participation in the process was important.

Mayor Tatzin noted that Moraga was in the process of updating their downtown plan and very recently sent Lafayette their Final EIR to which Lafayette and Orinda are creating a joint response. He said anything that staff produces will be a public document and suggested the Circulation Commission comment on it or hold a special meeting. He said the Council will hear it on May 11th and it is due May 15th. He also noted that the EIR is on-line at the Moraga website.

MS HIDEN said she noticed that both the Downtown Advisory Committee and Planning Commission are interested in a central turning lane on Moraga Road. She said one consultant evaluated this and at that point the City was not ready to give up parking and she noted this might be something to evaluate in the future.

Mayor Tatzin thanked both the BPAC and Circulation Commission for their presentations, and reminded everybody that the Council will discuss the Downtown Specific Plan on May 9th in an all-day session.

Councilmember Anderson discussed the agenda and the need to focus on several issues where there is clear disagreement or problems amongst the different commissions. He said there are about a dozen issues and the hope is to have discussion, receive public comment, and then determine direction by the Council.

Mr. Hughes questioned if after the May 9th meeting if the comments would be incorporated into the re-draft of the plan prepared by WRT and that would become the finalized Draft Plan to go to the EIR or, whether the draft plan with commentary would go to the EIR stage. Councilmember Anderson said the Planning Commission is concerned about not having a redraft of the plan going into the environmental process. The sense was that a re-draft could be prepared by Ann Merideth with graphic support from WRT. The new document will be available and reviewed prior to getting into the EIR. He described the Planning Commission and City Council public hearing process.

MR. HOLIT said lacking in the Downtown Strategy process, which is normally included is that a City get comments from several people and an answer is provided. But this is not occurring in the Downtown Strategy process. Mayor Tatzin explained that Mr. Holit was describing an EIR process which the City had not yet gotten to; the next draft will be the proposed project which will become subject to an EIR. The Council and Planning Commission will work together to define project alternatives which will also be studied in the EIR. All scoping meetings are public meetings and individuals can comment on that.

Mayor Tatzin thanked everybody for their time and suggested adjourning the meeting.

7. ADJOURNMENT

Adjourn joint session with the Circulation Commission and the Bicycle Pedestrian Advisory Committee

ACTION: It was M/S/C (Anderson/Andersson) to adjourn the joint session at 7:10 p.m. to the regular City Council meeting. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None; Absent: Federighi).

APPROVED:

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Don Tatzin, Mayor

ATTEST:

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Joanne Robbins, City Clerk

City of Lafayette
Lafayette City Council and
Redevelopment Agency Meeting

MINUTES

Lafayette Community Center – Manzanita Room **April 27, 2009**
500 St. Mary's Road, Lafayette, California **7:00 p.m.**

1. CALL TO ORDER

Mayor Tatzin called the Regular City Council meeting to order at 7:10 p.m.

2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson and Anduri

Absent: Councilmember Federighi

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Niroop Srivatsa, Planning & Building Services Manager; Greg Wolff, Senior Planner; Michael Cass, Assistant Planner; Lt. Mike Hubbard, Police Services Manager; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk

3. PLEDGE OF ALLEGIANCE – led by Mayor Tatzin

4. PUBLIC COMMENTS – None

5. REPORT FROM CLOSED SESSION

Mayor Tatzin reported that the City Council had met in Closed Session and there was no reportable action taken on one item, and the Council had directed the City Manager to sign a tolling agreement regarding potential litigation with the County for another item.

6. PUBLIC COMMENTS

Dick Holt said he noticed a proliferation of directional real estate signs and referred to the sign ordinance which states one cannot have a sign on a property that is not the owner's. He called the Code Enforcement Officer a few times and has not received any response. He questioned if letters could be sent to the local realtor offices.

Mayor Tatzin asked to have the Code Enforcement Officer provide a report regarding the City's actions on directional signs at a City Council meeting in May.

7. PRESENTATIONS

A. Recognizing Michelle Edmunds for her service on the Parks, Trails & Recreation Commission
Recommendation: Receive and file.

The City Council continued the recognition of Michelle Edmunds to the next meeting.

B. Presentation of 2008 Green Awards
Recommendation: Receive and file.

Mayor Tatzin presented 2009 Green Awards to Fred Curio, who said he stopped driving, rides his bike and BART to commute, replaced light bulbs, composts, recycles and his house is solar-powered producing more power than they use.

Kevin Feinstein, Merrywood Children's Center said he is teaching children ages 3-10 about the natural world, growing food, they pick wild food on walks, exploring connecting children to the earth, and set up a low maintenance perma-culture garden.

Debbie Swigert, Lafayette Health Club, introduced organic and natural cleaning products, have encouraged people to walk and ride their bikes to the club, are looking at new carpeting which is recycled and organic and are constantly educating members about living a greener life.

Kim Brass, Springhill Elementary School, said the school started a garden, is doing waste-buster activities, looking for ways to lower their carbon footprint, conserve resources, and trying to get children to think about being greener at an early age.

Regan McClean, President of Happy Valley Elementary School, said they taught little kids what to recycle and what not to recycle, taught them how to pick up trash, encouraged people not to use plastic bags but use reusable containers, the hot lunch program uses eco-friendly boxes, and we had 4th and 5th graders go on playgrounds and tell kids what to recycle and what not to recycle and held Green Week. She thanked Ms. Williams and Ms. Kwok.

Michael, Executive Director of Temple Isaiah, introduced Dick LeMere. He said they applied to be a green business, replaced light bulbs to lower wattage, put in motion sensors, inspected through all sinks with EBMUD who he said will provide free aerators which dispense less water. They installed low flush toilets, cut back on water and landscaping, replaced sprinkler heads and adjusted timing, and said almost all of their staff drive hybrid vehicles.

Ann Merideth introduced Steve Richard and Dick Holt of the Environmental Task Force who manage the Green Award Program. She said last year the Council adopted purchasing practices for the City offices and hired an intern, Janneke Petersen, who was determined to make the office a green business. On Janneke's last day, the City was certified as a green business and she is being recognized for her significant efforts.

Mayor Tatzin thanked all recipients and congratulated them on their green efforts.

C. John Coleman, Director, East Bay Municipal Utility District
Drought Update
Recommendation: Receive and file.

John Coleman, Director, East Bay Municipal Utility District, said two weeks ago the Board voted to go from mandatory to voluntary rationing, effective July 1st in part because people had reduced usage. They sold 165 million gallons of water which was substantially lower than what they had planned for and as a result, water usage was down. They also had great snows in March and a storm two weeks ago gave them an extra 5,000 acres in their watershed. They are currently

asking people to conserve, removed the 10% drought surcharge which will terminate on July 1st, and he said the Freeport facility will be completed in December and ready to operate next year if needed, which will provide up to 10,000 acre feet of water per month.

EBMUD is planning to the Year 2040 and is looking at desalination, increasing recycled water, increasing conservation by 39 million gallons of water a day and she said they are using 25% less water today than in 1971. EBMUD will audit homes and provide up to $1,000 to move toward drought tolerant landscaping, they have a program for toilet, washers and dryers with PG&E, and are fortunate to be going to voluntary rationing. He reported that the federal government will not deliver water to farmers and the State will only deliver 25% to farmers which will mean increased cost of local produce to consumers. He also reported that EBMUD will be providing garden space across the reservoir along Mt. Diablo Boulevard near the filter plant for free for a sustainability garden which will be several acres of land.

Mayor Tatzin thanked Mr. Coleman for his update and noted that the Council will consider a draft letter to the District regarding the proposed Water Supply Management Plan toward the end of the meeting's agenda.

Councilmember Anderson requested a status report on the Freeport project. Mr. Coleman said the project is a $946 million project; EBMUD is paying 54% of it and the County of Sacramento is paying 46%. It will be completed in December 2009 and water, if needed, can be brought in.

Vice Mayor Andersson referred to similar projects and the longer term and questioned whether EBMUD would see less of a need to ration if conservations efforts remain in effect. Mr. Coleman said in a normal year they have more water than needed, and overall, they are okay an average of 7 of 10 years. They changed their policy which has been to have a conservation program of no more than 25% for single family homeowners and they reduced this to 10%. They also know there are economic consequences to a drought and rationing and he discussed the 1976/77 drought and benchmarks for planning. If they were to go through a similar drought the lost local government in taxable income would be $1.3 billion due to the number of jobs lost. He also noted that the landscape industry is a $600 million industry in their service area which has been hit this year due to the economy.

Vice Mayor Andersson confirmed with Mr. Coleman that, assuming new projects and conservation continues, pricing incentives would continue to be in place. Mr. Coleman said they are looking at formulating zones due to differences in water usage as well as other mechanisms based on costs and true use.

Mayor Tatzin questioned what would be expected in rates, and Mr. Coleman said they approved a 7.5% rate increase for this year and next year. Last year they forecasted a 4% increase this year. In February, they held a special meeting and because people were conserving, there was a huge revenue drop to the District. In addition, the housing and building crisis hit and they were faced with either a 21% rate increase. They put in effect a hiring freeze which saved them $4 million. Travel is obsolete and they eliminated $5 million in sponsorships. Staff proposed a 12% increase for this year and next but a 7.5% increase was approved by the Board.

Mayor Tatzin questioned if this was 7.5% to each rate tier, and Mr. Coleman noted it was across the Board. Mayor Tatzin said EBMUD is looking at a Water Supply Management Plan 2040 and on the agenda is a draft of a letter supporting the plan for Council consideration that would be sent to Mr. Francis, and he asked Mr. Coleman review it. Mr. Coleman said the plan is critical; in long-term planning they eliminated an option to take out Buckhorn Reservoir. They are now

looking at building a new reservoir down river of Pardee Reservoir in order to expand supply. He said he was attempting to work with Amador County and Calaveras County elected officials who are being attacked on desalination. Some would not want EBMUD to increase its supply yet they know demand will increase. They are looking at the need for 280 million gallons a day in 2040 and they will actually build for 230 million gallons a day by 2040. He said by keeping the preferred portfolio as an option, they have the ability to negotiate without limiting their ability to do something.

D. Carol Pranka, Executive Coordinator, Diablo Firesafe Council
Community Wildlife Protection Plan and Best Management Practices Guidebook for Hazardous Fuel Treatments in Contra Costa County
Recommendation: Receive and file.

Carol Pranka, Executive Coordinator, Diablo Firesafe Council, described their agency as a non-profit organization whose mission is to reduce the impact of wild land fires in Contra Costa and Alameda counties. They originally served as a networking educational group that brought public and private agencies, citizens, public corporations and forest personnel together to review issues of wild and urban interface. They evolved to be more of a service provider and utilize their status as a non-profit group to solicit, grant funds and distribute funds to communities for educational programs, direct services and programs.

Ms. Pranka discussed grant funds to assist agencies with chipping services and said had they recently created a Community Wildlife Protection Program and Best Management Practices Guide through a grant from the U.S. Fish and Wildlife Service. Once certified, they will receive priority funding status which will assist them in conducting defensible space work. She also reported receiving preliminary notification for a $150,000 grant to do more defensible space and chipping work. She extended an early invitation to Lafayette to participate in the program and would make the Emergency Preparedness Commission aware of receipt of funding and resources.

Councilmember Anderson referred to the grant's use for public or private property and confirmed with Ms. Pranka that their agency works with homeowner groups in canyon areas which are high priority zones in the Lafayette area. They would also like to work with the Contra Costa Fire Protection District to conduct homeowner work. Councilmember Anderson suggested Ms. Pranka contact and connect with the Lafayette Homeowners Association.

Mr. Falk confirmed that Ms. Pranka would be in attendance at Wednesday night's Lamorinda group meeting. She said they expect to have over 100 people in attendance to discuss the issues of wild land urban interface fires and to bring groups together at the resident level to make plans and prioritize needs, and their services will be offered.

Mr. Falk noted that this was considered to be the largest gathering of citizens concerned about wildfires since the Oakland Hills fire and is aimed at Lamorinda residents. He said an article was placed in the Vistas; the meeting will be held at the Orinda Public Library's Auditorium at 7:00 p.m. on April 29, 2009.

8. OLD BUSINESS

A. Lindy Coburn, Associate Planner
Inclusionary Housing Ordinance follow-up on final key component – In-Lieu Fees
Recommendation: Provide direction on how the City should establish in-lieu fees and direct staff to draft an Inclusionary Housing Ordinance.

Greg Wolff, Senior Planner, said previously the Council had provided staff and the Housing Consultant with direction on key components to include in the Inclusionary Housing Ordinance which will return to the Council for consideration at public hearings. The Council gave direction on all items except how the in-lieu fee should be calculated, which is being brought back for clarification. Staff seeks direction on the methodology for in-lieu fees and direction to begin drafting the ordinance.

Mr. Wolff referred to page 2 of the staff report which shows, by housing type, what staff had initially proposed with input from Keyser Marsten Associates in columns 2 and 3 with a range of prices per unit type. The Council questioned what full cost recovery would reveal, which is represented in the columns 4 and 5. Keyser Marten provided staff with full unit costs or the burden or gap and staff had translated this into a square foot cost incorrectly. He said staff did not take into consideration the fact that the units vary by size.

The revised Exhibit 3 and highlighted rows show those which are being recommended. In consultation with KMA, Kate Funk is recommending that, for single family units outside the RDA, the 3-bedroom line item and 4-bedroom line item which results in $36 per square foot and $42 per square foot, respectively, be averaged and that there be one number for each unit type, applied on a square foot basis.

Mr. Wolff referred to page 3, Mayor Tatzin had previously identified there was a significant incremental cost from a 9-unit project to a 10-unit project whereby the applicant would be required to build rather than pay an in-lieu fee. He said the approach taken in the staff report was to have a sliding scale from 3 units up to 10. From 1-10 units, percentages were shown in Table 1, and staff prepared a table showing examples of what it would cost to build based on various sizes of projects by applying the 10% affordable requirement, applying the sliding scale for fractional units, and multiplying the per square foot cost. He said the fractional unit would be paid out in a per square foot basis.

Mr. Wolff reported a mathematical error on the bottom of page 4; the example shown came up with a $16,000 result in the first row, but this should be $27,200. Therefore, the total burden on the example project would be $163,200 and not $97,920.

Vice Mayor Andersson referred to page 3, top table and said the in lieu fee requirement is .1 through .91 and he questioned how one gets from column 1 to column 3. Mr. Wolff said in removing column 3, column 2 is just the 10% inclusionary requirement. Column 3 is staff's attempt to ramp up to the 1 unit at 10 units.

Vice Mayor Andersson said if one is building a unit, it might cost less than a standard unit because it is allowed to be smaller with less finishes, and depending on the type of development, it could be substantially less than the full cost. He said it might be preferable if in the .7 - .9 range for the builder to build the extra unit rather than pay the in-lieu fee. He questioned whether this would be permissible. Mr. Wolff said he did not think it was explicitly stated previously, but when staff drafts the ordinance, this would be included.

Councilmember Anduri questioned and confirmed that this would move from a partial cost recovery to a full cost recovery. He questioned if the full cost recovery was based upon the market rate price units as opposed to the cost to build an affordable unit. Ms. Elrod said it is the gap between what is affordable and what a market rate unit is. The way Keyser Marsten did the calculation is that they tried to capture the gap between the unit that is affordable versus one that

is not. This is laid out in the back of the report as to how the Keyser Marsten calculations were done. A full cost recovery unit of a market rate unit is much more than $23,000 per unit to build, but this is the gap that you are trying to capture in the calculation.

She noted that Table VII shows that for a 10% affordability program, the moderate income shows what the gap is between what the affordable price is versus the actual market rate price. The affordability price is the $236,700, so the in-lieu fee equivalent per market rate is 10% because there are 10 units. The math is trying to capture the gap between what a person of lower income could pay and what the actual cost is of a market rate unit, and not the cost of what you would actually sell it as but the cost to build it.

Councilmember Anduri said the Council had talked about the fact that there might be a difference is levels of what might be sold as an affordable unit and the other units. Ms. Elrod said for the purposes of actually building a unit, the incentive to build the unit is an allowance for reduction in finishes or apartment size. So, the builder can either help to build a unit somewhere else or can provide it, and the incentive to provide it is that the builder gets a reduction in the size. The calculations are based on a standard size of a unit for the purposes of developing an in-lieu fee. But, if a developer wants to build a unit that is less, the incentive is perhaps to actually build a unit. Obviously, the City wants to have a unit rather than just collect money, but in every program she has seen there is always an option to build the unit instead of pay in-lieu fees.

Mayor Tatzin thanked Mr. Wolff for highlighting the calculations on page 4. He noted the work is exactly what Council had asked for, but he referred to the Table on the bottom of page 3; it points out an interesting set of priorities in that the burden on a condo is $17/square foot, the average burden on a single family home is $39/square foot and the average burden on an apartment is $34/square foot. If the Council proceeds with the structure, it communicates that in multi-family zones, the Council prefers condos as opposed to apartments, and that we prefer moderate income in affordable housing as opposed to low income affordable housing. He said the Council agreed that the affordable units would be moderate for condos and apartments would be low income affordability. This creates a cost difference, in terms of the inclusionary fee, for developers. He reiterated that staff did exactly what the Council had asked. However, he was not sure it was a good policy, as there are many requirements in RHNA numbers for low and very low income housing which is more likely to be rental, and this is not what this policy will do. The City does not have provisions in its zoning to say it is a multi-family zone but does not want rental housing built as opposed to for-sale housing.

Councilmember Anderson questioned and clarified that Mayor Tatzin's belief was that the condo cost was too low, as builders would build condos rather than build apartments.

Mr. Wolff said the Council has given direction that even if it were to adopt the numbers as presented, given the market conditions, the intent was to adopt an ordinance and fee schedule and then put on hold the in-lieu fees for rental until such time as the market bounces back. This would be a limited term solution and not a long term policy solution to address the issue Mayor Tatzin raised.

Ms. Elrod also noted that inclusionary programs are not intended to fix jurisdictions' housing problems; it is a portion of the market for housing and how to get some affordability so that other resources could be targeted to the lower income. In terms of an inclusionary program that may be more attractive to produce condos, it is still more than what you may have otherwise gotten in terms of affordable units. The money generated is of benefit to any of the projects that may propose rental housing. There is not going to be much in the way of a rental market for the time

being, but further, any affordable rental development is almost exclusively going to be done with some sort of federal or state subsidy. Therefore, this is trying to get at the part of the market that would not otherwise be assisted.

Mayor Tatzin said if the Council indicates the affordable units can be smaller or of different finish, one could see some rental housing developers decide to include the units in their project, such as they have in some recent projects. Absent everything, he feels this gives a developer who has a zoning entitlement an incentive to build condos as opposed to apartments, and acknowledged it was easy to remedy, as well. He also noted that this is a proposal outside the RDA, so there is not a lot of area zoned. If practiced, it will not have a big impact but he believed there is a policy implication of what the Council would be doing.

Councilmember Anduri said in terms of a policy implication, he sees this as acceptable outside of the RDA zone, as he thinks condos are going to be a more acceptable form of development outside the RDA zone and this is getting the City something where it had nothing before.

Councilmember Anderson felt Mayor Tatzin had a good point; it seems like the City has a blended single-family number that looks at different rates. He questioned why couldn't the City accommodate low income along with moderate income in apartments and end up with a blended rate which might make the step not so great in one direction or another. He also suggested possibly blending both at low and moderate and blending the two rates.

Vice Mayor Andersson agreed and said it seems like the rationale for putting the requirement for a low income unit for apartments and moderate for condos and single family houses was that although low income units are harder to do because the differential is greater, with apartments, the differential would be less and more or less comparable. When looking at the table on page 2, he said what you see is, in fact, the difference in cost truly is not that great between condos and apartments. And as a result, if you look at the per square foot full in-lieu equivalent, for condos the low income unit would be $30, for apartments it is $34 and for moderate, both are $17 so there is not a lot of difference. To him it would make sense, whether using low or moderate or a blend to use the same one for both unless there is some reason that the Council wants to encourage one and not the other.

Councilmember Anderson said he believes the rationale was that the Council was thinking rental was probably the easiest place to get low income units, but he thinks there is a potential issue with multi-family for-sale. Maybe it is more difficult when there are homeowner fees to make this sustainable, but it does push things in a certain direction and agreed with Mayor Tatzin's point. He suggested blending low and moderate in both multi-family sections, whether it is rental or for-sale and have this be a blended cost to create units, which he felt would be close to equal.

Mayor Tatzin said the City could always then say it might put in additional funds to make the actual units restricted to people of low income and not favoring one type of development over another in the decision. Councilmember Anderson was amenable to this approach.

Ms. Elrod felt if the Council was looking at it to find a number to even it out, it may run into a problem in how to justify it if the build requirement does not include the same requirement. She said the reason they suggested moderate income not be included in apartment buildings is because moderate income apartments are close to market rate for rental. If a blending is done, more likely you would do low or very low because an average of the two would be $36. In her opinion, if you push in any direction, it should be downward toward the lower income categories. Then, when you get to a build requirement, you figure out which unit is going to be the very low

income unit, which is going to be the moderate income unit, and then what amount you would use for the fractional amount. She said it is not easy to do but it can be done given the level of concern.

Mayor Tatzin suggested leaving the apartments as is. In the condos, he suggested using the 50/50 blended rate between low and moderate with the understanding that if somebody builds the unit, they can build it as a moderate income unit. This would provide more incentive for the condo developer to actually provide units which is not a bad outcome. If they choose not to, they will be paying $23 as opposed to $34, so it is still an incentive and not as big an incentive as $17 is.

Vice Mayor Andersson said another option might be that, given this is outside the RDA and not many units, it might be simple to use low for both condos and apartments or moderate for both condos and apartments. Mayor Tatzin said he would agree with Ms. Elrod in pushing down the affordability scale and he would agree with this and use the low income for both. Councilmember Anduri voiced support for this. Councilmember Anderson confirmed that moderate income would come about in single family units and he supported the suggestion to use low income for both condos and apartments.

Vice Mayor Andersson said there was some effort made to ensure there was not an economic break between 9 units and 10 units. However, in looking at the table at the bottom of page 3 and the top of page 4, there is an even more substantial break between 14 and 15 units because of the rounding up to the 2nd unit. For the 14th unit you pay 28% of a whole unit. For the 15th unit, you are putting in a whole unit, so it seems to be a serious disincentive to go above 14 unless you are willing to go to 19 or 20 units.

Mr. Wolff agreed and noted the jump moved from between 9 and 10 to between 4 and 5 because at 5 you would round up. He said in discussing this with KMA, they advocated for full recovery rate for fractional units for projects with over 10 units and no longer sliding back down only to ramp back up. So, you would only ramp up from the 3rd unit up to the 10th, and then it would stay constant thereafter, either building a unit or building a unit and paying the full recovery per square foot in-lieu fee for a fractional unit.

Mayor Tatzin noted that the item would return and Council was in agreement with making two changes to the report; 1) change the condominium fee to what it would be for low income; and 2) for all categories above one unit, to make the fractional payments for the additional units based upon the full recovery rate, whatever that is per square foot.

B. Michael Cass, Assistant Planner
Resolution 2009-Lafayette Chamber of Commerce request for Council consideration to amend the 2009 Stimulus Plan to waive parking requirements for existing small businesses under 1500 square feet
Recommendation: Discuss and direct staff.

Mayor Tatzin noted that in addition to the staff report, the Council had also received correspondence regarding the item.

Assistant Planner Michael Cass said at the last Council meeting of April 13th, the Council reviewed the Chamber of Commerce's request to amend the 2009 Stimulus Plan specifically to waive parking requirements for existing small businesses. The Council gave direction to the Chamber, one of the known affected businesses; Chevalier Restaurant, and to staff.

The Council directed staff to prepare a resolution approving the request. The City Attorney prepared Resolution 2009-26, which is attached to the staff report.

Staff was directed to conduct research in regards to potentially affected businesses within the City. Staff is unaware of any other affected businesses and believes the resolution has been written in a manner that is narrowly focused. Staff believes that Chevalier Restaurant is the only property which will be affected by the resolution.

The Council directed the business owners, Philippe and Gretchen Chevalier, to contact tenants on the same property to advise them of the situation and preferably to obtain written support. At the time the staff report was prepared, the business owner submitted documentation from two tenants; (1) Marshall Steel Cleaners who is in support of the request; and (2) Sew Now!, who was not in support of the request due to concerns of the on-going parking situation and loitering. Sew Now! prefers a long-term solution rather than a short-term solution. Mr. Cass noted that Flippers Burgers has not submitted any documentation at the time the staff report was prepared.

In addition to direction from the Council, staff provided additional information regarding the history associated with the property having to do with the shared parking agreement approved by the Planning Commission back in 1999, where the hours of operation were limited for the restaurant in the space that is currently occupied by Chevalier Restaurant. Staff also provided additional information regarding the number of required parking spaces and what is actually provided for on the subject property. He noted there are 24 spaces using the existing City's ordinance. With existing tenants in place, they would normally be required to provide 38 parking spaces.

Councilmember Anderson referred to the parking analysis, Attachment F, and he asked Mr. Cass to clarify the tally of parking spaces showing a grand total of 47.67 spaces. Mr. Cass noted that the required parking spaces have been broken down for each of the four tenants. Based upon their activity classification, there is a certain number of spaces required, and in most situations it is roughly 1 parking space for every 250 square feet,; however, restaurants are required to maintain 1 parking space for every 100 square feet of gross floor area, as well as one parking space for every 45 square feet of dining area. Mr. Cass noted that within the off-street parking ordinance, both inside and outside dining spaces are included within the calculation, but the City's practice has been not to include outdoor dining space as a means to encourage pedestrian activity within the downtown. The subject property is required to provide 47 parking spaces if the outdoor dining area is included in the calculation. If it is not included, 38 parking spaces shall be provided.

Councilmember Anderson said when it indicates there are 14 deficient spaces he questioned whether this was against the 38 or 47 spaces. Mr. Cass clarified it was based against the 38 spaces; the restaurant provides approximately 2/3 of their required spaces if outdoor dining area was not included.

Public Comments:

GRETCHEN CHEVALIER discussed tenant reactions regarding their request for parking and said the dry cleaning owner supported them. The other tenant, Sew Now!'s pressured response looked like a response of non-support. However, since the writing she has held discussions with the business owner who has indicated concerns during the summertime when sessions begin for children. She has a couple of sessions twice a week and explained that she did not need permanent parking during those hours, but that she just had many children being dropped off and flow in and out of the parking lot. She suggested that a good fix would be ask the building

management to provide her with 2-3 dedicated spaces for a 10 minute timeframe, which would satisfy her concerns.

Regarding Flipper's Burgers, Ms. Chevalier did not expect to receive their support. She noted they would continue to work with the other tenants to make the situation work.

Councilmember Anduri said the last time Ms. Chevalier was present she was asked how soon they could open for lunch and the response was the next day. If they had to stop serving lunch, he confirmed this could also be done immediately. He also questioned what sort of promotion would be done for their lunch. Ms. Chevalier said they have an e-flyer, they advertise in Diablo Magazine, they would place ads in the Lamorinda Sun, Contra Costa Times, and even though they are not open for lunch her husband turns down approximately 30 reservations during the weekend for Saturday lunch and many during the week. Therefore, she said there is sufficient demand.

Councilmember Anduri questioned and confirmed with Ms. Chevalier that given the monitoring of the parking lot, if the Council were to approve the request, there would be sufficient parking. Ms. Chevalier referred to photographs taken every 1-2 hours and noted that the parking lot is often fairly empty and most of the cars employee parking.

Councilmember Anduri said given Ms. Chevalier's confidence, he questioned and confirmed that she would be open to a solution for a two-month trial period which might assist them in working with Sew Now! prior to the summer schedule.

Vice Mayor Andersson noted there are many circled employee parking on the photographs, and he questioned if Ms. Chevalier's employees were present at the restaurant during lunchtime preparing for the dinner hour. Ms. Chevalier said starting at 11:00 a.m. they have at least 3 cars in the parking lot. They have another 2 in the early afternoon preparing for dinner and she could commit to those employees parking elsewhere, thereby gaining 2-3 spaces in the lot.

CLAUDIA MARTENS said she is a friend, neighbor and patron of Chevalier Restaurant and she supports them in their efforts. She understands the Stimulus Plan to temporarily get additional parking for small businesses, but said the Chevalier's have come to the community, bought a home, are raising their family and she urged the City to assist them in succeeding in their business.

Councilmember Anderson supported the idea of a trial period and voiced concern with the parking situation as the City may find a negative impact to other businesses. He said he would worry about what would happen if the Council extended to December if there was still an issue, as he was not sure spaces could be provided at the old library site and guaranteed parking would be provided to the restaurant. He believed the situation to be a little murky and the long-term problem was not truly being solved. He asked that the resolution reflect a two-month trial period and determine if any unanticipated problems come about that the Council did not consider.

Councilmember Anduri questioned the effective date if the resolution were adopted, and Ms. Subramanian said if the Council wished to implement a two-month trial period, Section 2 would be revised to state, "…until June 30, 2009" instead of "December 31st" and she confirmed it would take effect immediately. She said the City would have to execute an agreement in reference to Section 2 but this could be done quickly.

Councilmember Anduri acknowledged that the business was valuable to the community but said on the other hand, there are valid interests of other tenants who are relying on the benefits and protections of the parking ordinance. He was surprised to see the dramatic difference between the requirement for parking and the actual parking there, which is stark. He believes the City actually has higher parking requirements than needed and was more inclined to move forward on a trial period. He also acknowledged that Councilmember Federighi would be on the opposite side of the spectrum, but still would support a two-month trial period. His only concern with June 30th is the Sew Now! program starting, and he confirmed they begin June 9th. Councilmember Anduri said he would support the June 30th date.

Vice Mayor Andersson said he whether or not parking requirements should be something less, he is a believer in empirical evidence in that there are a substantial number of spaces in the location. He also knows that Flipper's clientele is mostly pedestrian-related and his hope would be that the restaurant could move as much employee parking off-site as possible. He suggested the restaurant suggest to patrons that they choose to walk rather than park which he felt would promote the situation working even better. He also thought that about three weeks to a month of Sew Now!'s summer program should provide enough evidence to determine whether or not the situation will work.

Mayor Tatzin supported the two-month trial, as well but said he takes a different point of view regarding Sew Now!'s request. In looking at the chart it indicates that Sew Now! is entitled to 4.25 spaces in the lot. He said if he understood Ms. Chevalier's comments, Sew Now is asking for that amount plus 3 additional spaces. To the extent the Council was going to waive parking requirements, if the landlord wants to do this it is his choice but he did not believe the Sew Now!'s parking spaces should be preserved over a lunch business or vice versa. He was prepared to support the request and allow the landlord to allocate spaces within guidelines of what best makes sense for the tenants.

Councilmember Anderson noted there was a proposal to create some temporary, short-term parking that would assist the Sew Now! business for the drop off space. Mayor Tatzin pointed out that this is a request that would exceed their parking space allocation. Councilmember Anduri noted that this had nothing to do with the current request, and Mayor Tatzin said he was less concerned about the trial period because he believes Sew Now! was basing their opinion on needing more parking than what their business was allocated, based on the City's Off-Street Parking Ordinance. Councilmember Anduri agreed with this, stating that it is empirical evidence and it could be that beyond December 31st it could continue this way, as well.

Mayor Tatzin suggested that the City Attorney amend Section 2, and said that he believed Section 1 created ambiguity. He suggested removing the phrase, "As long as this resolution remains in effect" and replacing it with, "From the effective date of this resolution through June 30, 2009…"

Mr. Cass noted that staff had additional recommendations: In Section 1 there is currently mentioned of an agreement to be executed between the business owner. Staff would recommend amending this to include the property owner. Secondly, staff recommends including in the motion that the business owner continue to monitor and track the existing parking situation throughout the two-month trial period so that when the item returns on or around June 30th, the Council has some evidence of the modified parking situation.

Mayor Tatzin questioned the rationale for including the property owner, as he was not sure the property owner would be willing to do this, and his vote would not be contingent on the property owner's agreement to enter into an agreement which holds the City harmless. Mr. Cass said to date, the City has only heard second-hand information that the property owner is supportive of the change and no written documentation has been received. Secondly, he noted that the restricted hours are included within the Chevalier's lease.

Councilmember Anderson questioned whether the Council would simply be adding onto the land use question and not the internal business' allocation of spaces. Mayor Tatzin said in addition, staff could ask that the business owner provide a letter from the property owner they could support the change without asking the property be part of the indemnification. Mr. Cass agreed that this could be done.

ACTION: It was M/S/C (Anduri/Anderson) to adopt Resolution 2009-26, with modification to Section 1, to remove the phrase, "As long as this resolution remains in effect" and replace it with, "From the effective date of this resolution through June 30, 2009…"; and amend the resolution to request that the business owner provide a letter from the property owner indicating support of the change in parking requirements; as well as amendment to Section 2 to be revised to state, "…until June 30, 2009" instead of "December 31st" which would take effect immediately. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None; Absent: Federighi).

C. Steven Falk, City Manager
Update on 2009 Workplans
Recommendation: Receive and file.

Vice Mayor Andersson noted that initial research has been done on the Sheriff's contract as to what is currently in place and they are beginning with work on options.

Mayor Tatzin questioned if there was a new date for the preliminary report the Council should have received this evening. City Manager Falk reported that the consultant produced a draft description of the current police department which is a 20-page document. It is very thorough, describes how the department is configured, how shifts work and compares how the shifts are constructed with the experiences of crime in Lafayette to determine adequacy of staffing levels. He said next steps for the consultant are to put together a focus group to talk with representatives of the community about what they would like to see a police force be. He worked with the Mayor and Vice Mayor to suggest people who would be on the focus group which include the Executive Director of the Chamber, Chair of the Emergency Preparedness Commission, Chair of the Crime Prevention Commission, Superintendent of the Acalanes High School District, Superintendent of the Lafayette School District, Vice Mayor, Chair of the Senior and Youth Commissions, CEO of the Lafayette Taxpayers Association, Chair of the Lafayette Homeowners Council, and they are working with the City Clerk to convene that focus group.

They have also asked for his thoughts about the various alternative configurations of police, one of which would be to contract with another City rather than with the County. He received word from the City Manager of Walnut Creek regarding his willingness to have this conversation.

Mayor Tatzin said he asked that these updates return every other month. For the June version, he suggested updating the schedule. Mr. Falk said he was not sure whether he should leave in the original dates or whether he should update the dates. Mayor Tatzin suggested leaving both in; April 27th and if it slips to June, the new date could be included so as to see how much it slips. Mr. Falk said the new dates would be reflected in italics.

Regarding the Library, Mayor Tatzin said not all windows are installed, the metal roof is reasonably completed, the granite is being undertaken and is no longer the critical path item, and he confirmed that the dates are from the original dates the Council saw in February. Mayor Tatzin suggested putting in the new dates from the schedule and said the original opening date was November 17th which is now November 14th, and he asked to modify this. City Manager Falk noted work was proceeding and more would be learned next Thursday.

Councilmember Anduri confirmed that the building skin completed meant all granite work was completed as well as the teak, and he thought the building would be spectacular. Mr. Falk agreed and said the granite installation was extremely labor-intensive and he briefly explained it.

Mayor Tatzin said with regard to Finance Review recommendations the Joint Communications Charter Committee has met twice. Members are very keen and they elected Cheryl Knoll as Chair who most recently chaired the successful Lamorinda School District tax measure and has a long history of involvement in school issues. Other members of the group have started a work plan with a commitment to finish in September and they are meeting every Thursday at 6:00 p.m.

Councilmember Anderson reported having a productive meeting with the Chair and Vice Chair of the Planning Commission regarding how to process revisions to the plan. He thanked Ann Meredith for her willingness to re-write the document. The draft should be prepared with the Planning Commission taking the lead of the initial scoping of the EIR and then coming to the Council for approval. He felt the process would be made smoother and it should answer people's concerns. He noted they would have a session on May 9th and will be organized around all issues, will have things agreed to laid out and those 8-12 issues also identified to focus on them.

Vice Mayor Andersson added that the Planning Commission and staff have made the Council's job much easier for May 9th. He said the two major issues of height and density and the process will be discussed among others. The Planning Commission did a very detailed block by block analysis of density and height and arrived at some modifications which he thinks will be less controversial than what was originally proposed. Staff came up with a process that puts the plan back into a more standard track for environmental review and he commended both the Planning Commission and staff.

Mayor Tatzin noted that some of the dates would most likely change but the Library would still be completed this year.

Councilmember Anduri reported on roads, stating he and Mayor Tatzin would meet tomorrow with Tracy Robinson and Tony Coe and review information for another meeting with the Task Force.

Mayor Tatzin said projects are underway this year, bids are coming in below estimate, and he questioned if there was a chance to take the savings and do another project this year. Mr. Falk said this is difficult due to projects requiring so much engineering. The Council has asked Mr. Coe who does not believe it is possible, but he can be asked again. There are roads that are catastrophically failed and those which need slurry treatment and the subject will be discussed tomorrow.

Councilmember Anderson pointed out they were in an unusual time where there are good bids for fairly intensive and complicated work. Mayor Tatzin said it may be that engineering firms do not have that much business and there are straight-forward projects where their engineering work could be contracted out if the City felt it could get another project done this year. Mr. Falk noted that there are two engineers who are extremely busy at the moment.

Councilmember Anduri said the Council did change the proportion of maintenance work to reconstruction work this year and this was a step forward. Councilmember Anderson agreed, but said with the economy the way it is it might make sense to bid on reconstruction more heavily because prices will be good.

Public Comments:

ANN BURNS said she thought the CPAC met last week and decided to do something with the money left over from Old Jonas Hill Road. Councilmember Anduri said part of tomorrow's meeting would be to receive an update from CPAC.

Councilmember Anderson referred to the Parks and Recreation Master Plan, stating that he did not have any additional information to report.

Regarding the Senior Needs Assessment, Councilmember Anduri said they are way ahead schedule; the community workshops and executive interviews scheduled for July will take place tomorrow. Everybody is welcome to attend the meetings at 2:00 p.m. and 6:00 p.m. at Temple Isaiah.

Mayor Tatzin said there has been some level of interest expressed by Orinda and Moraga in watching what Lafayette is doing. At the Mayor's Breakfast last Friday, he indicated that if they are interested in participating in the survey, they can be accommodated if they pay their fair share. She encouraged the group to contact the City Managers of both communities with the schedule and determine whether or not they want to participate. Councilmember Anduri noted this was moving quickly and knows there was interest expressed by the Council in doing more than surveying 55+ individuals.

Mayor Tatzin said the City Managers should be contacted to determine whether or not they could provide a financial contribution. Mr. Falk said he discussed this with the Moraga Town Manager who believes there would be value doing sampling of the same data for Moraga. Mr. Falk said the Manager was more interested in shedding cost due to their desperate financial situation and they discussed whether Lafayette would be re-interested in running their recreation program for them, which was done a few years ago, and whether there was from a regional perspective a need to have three different senior centers throughout Lamorinda or could the area support one center. He believed that Lafayette should see the results of its survey first, but he left the question up to the Town Manager, noting that the group probably would be willing to add additional questions if Moraga paid for these. He confirmed that he did not have the same conversation with Orinda and Mayor Tatzin asked that staff contact the Orinda City Manager.

Regarding additional downtown parking, Mr. Falk noted this work plan needs to be revised. At the time the plan was drafted, staff was in the process of renegotiating a lease with AT&T for 34 parking spaces located behind the Old Freddy's Pizza and adjacent to the BART station. He said the City has leased the spaces for 20 years and, in turn, subleased them to BART parkers. Six-month parking passes are issued for the lot.

Meanwhile, staff has been working with the owner of the Lafayette Town Center who has a vacancy at Hollywood Video and would like to put a restaurant into that space. He noted the developer is that of Bing Crosby's and McCovey's restaurants, and they would like to do a St. Mary's (college) theme restaurant in the space but have no parking. He has encouraged the developer to take over the lease with AT&T directly and in so doing, create a parking lot for the

Town Center and free up the spaces behind the stores. He is short exactly 34 spaces for the restaurant and he feels this will work out well. Therefore, he asked to remove that portion from the workplan.

Mr. Falk said the second portion of this workplan calls for the City to pursue options for new downtown parking. In the report from Closed Session, the City made an offer to purchase the property located at the corner of Risa Road and Mt. Diablo Boulevard, which could accommodate up to 60 parking spaces that would serve reservoir patrons, Veterans Building visitors, and Temple Isaiah visitors. There was a noon deadline today of the owner to respond, which did not occur and unless the Council wants to use another tool, this acquisition will not occur in the near future. Staff also looked seriously at the property located on Brown Avenue, which the Council decided was not a strategic option at this time.

Mayor Tatzin noted that for the task, the City has pursued options which have not been successful, but these are not completed as more options will be pursued. Mr. Falk agreed to identify the task as "ongoing".

Councilmember Anduri questioned whether the AT&T parking lot was one of the spaces that shows up under the Downtown Strategic Plan which is located under a four-story building. Councilmember Anderson said yes; it is really a space that is under-utilized when looking at it from a satellite view. He said AT&T representatives have a great deal of sensitive underground connections and to have anyone build on it could be a disaster. Mr. Falk reiterated its sensitivity and said the window-less building on site is the switching yard for the entire East Bay.

Councilmember Anduri questioned the St. Mary's themed restaurants, and Mr. Falk suggested the Council visit McCovey's Restaurant, stating the owners are big sports fans, are alumni's of St. Mary's and they like to fashion their restaurants in historic football and baseball memorabilia.

Regarding the Open Space Committee, Councilmember Anduri reported meeting twice with another meeting on Friday. They have a chair, vice chair, a schedule and an intern and everything is on schedule.

Regarding the open government statement, Mayor Tatzin said this has been approved conceptually and the City Clerk has begun to compile it.

Mayor Tatzin suggested bringing the workplan items back at a June Council meeting, and Mr. Falk noted staff would also amend the document and post it as a PDF on the website.

9. STAFF REPORTS

A. Steven Falk, City Manager

Letter to Susan Bonilla, Chair, Contra Costa County Board of Supervisors to Oppose Proposed Reduction in Prosecutions by Contra Costa County District Attorney

Recommendation: Authorize Mayor to send letter opposing proposed reduction in prosecutions by Contra Costa County District Attorney.

Lt. Hubbard noted that on the first line, it states that simple possession cases involving methamphetamines, cocaine and heroin will not be reviewed, but they will, and he noted that there was a new threshold of review. Mr. Falk said this would not make a substantial difference for the letter and said removed was the actual quantities of drugs.

Councilmember Anderson supported sending the letter and believes it represents the public's understanding of the situation. Council received an earlier briefing that provided much more detail than the average person knows. He also wanted to be able to work with the County if they decide they would arrive at an alternative, and supported the letter.

Mr. Falk noted that the Board of Supervisors is meeting at 3:00 p.m. the next day and a group of Chiefs and Mayors will be attending the meeting.

Vice Mayor Andersson said if there was some middle ground on this topic, at a minimum, rather than saying the cases will not be handled, he suggested they at least put minimal manpower to do a cursory review so that some arrests would be addressed and people can be assured some would get prosecuted. Mayor Tatzin felt this would need to be a letter sent to the District Attorney and said this subject was more related to budgeting. Councilmember Anduri believed it was such a basic obligation, said there should be no middle ground, and he believed the letter expresses this well.

Mr. Falk said one concern the Mayor and he have expressed to each other is that this could cascade down as one more instance where cities are expected to pay for services. He said 10 years ago animal control was a County responsibility. The city now pays about $80,000 a year in animal control fees. In addition, the CCTA was also responsible for providing senior transportation throughout the county and now cities pay for and provide senior transportation. At one point the County Library system owned and operated all of the facilities in the county, but the city is now on the verge of taking ownership of a facility. He suggested development of a pattern that, as the county has experienced increased financial difficulties, they pass costs onto cities and he cannot help but expect them to ask cities to come up with funding to backfill this issue.

Mayor Tatzin believed this was real and he noted that a Supervisor indicated that one reason they cut the budget was because their Prop 172 revenues were down. He noted that Prop 172 was passed in the 90's to transfer a portion of sales tax to jurisdictions for public safety purposes and funds in the county provide about 40% of the District Attorney's budget and about 17% of the Prop 172 funds the county gets. The County received $65 million in 2007/2008 in Prop 172 and Lafayette received zero. Therefore, he will be sharing all Prop 172 information to the County to provide this necessary service.

Councilmember Anderson believed there is a pattern and he did not believe the City had any interest in paying for county services. Mayor Tatzin believed that in a sense, the county has built their own condition through historical budgeting and employee agreements.

Lt. Hubbard said as stated in the subcommittee, he wanted the public to know that the District Attorney's decision not to file charges on certain crimes would not in any way affect the Lafayette Police Department's role in arresting people and providing a public service for the community and in enforcing laws.

Mayor Tatzin noted the one change needed to be made to the first bullet and he would present the letter to the Board of Supervisors.

10. PUBLIC HEARINGS

11. CONSENT CALENDAR

Mayor Tatzin requested removal of Item E.

ACTION: It was M/S/C (Anderson/Andersson) to approve Consent Calendar items A, B, C and D. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None; Absent: Federighi).

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A. City Council Minutes
April 13, 2009
Recommendation: Approve.

B. Award Contract PWS 09-02; 2009 Spring Pavement Striping and Delineation
Recommendation: Award Contract PWS 09-02 to Sierra Striping, Inc. in the amount of $24,788.25.

C. Award Contract for the Community Park Children's Play Area Project
Recommendation: Adopt the project plans, specifications, and working details for the Lafayette Community Park Children's Play Area Project, reject Blossom Valley Construction, Inc. as non-responsive and award contract to the second lowest bidder, S.R.P. Company in the amount of $124,855.50.

D. Resolution 2009-20 Authorize City Manager to Execute the Standard City of Lafayette Agreement for Installation and Maintenance of Existing and New Landscaping and Stormwater Management Facilities Operations and Maintenance Agreement and Right of Entry
Recommendation: Adopt Resolution 2009-20.

Item Removed:

E. Resolution 2009-18 Gifts and Tickets Policy for city employees and officials
Recommendation: Adopt Resolution 2009-18.

Mayor Tatzin said assuming Councilmembers attend Citizen of the Year dinner but only one Councilmember makes presentations, he questioned what would happen with the others. Ms. Subramanian noted that the others fall within the distribution and ticket policy and then there are reporting requirements for the cost of the ticket. She noted the policy was mandatory and it was paired down because Councilmembers would only potentially take tickets from the City.

Mayor Tatzin questioned if Councilmembers in addition to the Mayor attend a monthly Mayor's conference. Ms. Subramanian read the policy wording and noted this would not qualify under the policy. Mayor Tatzin said similarly, if multiple members of the Council go to the League meeting, he confirmed this would not fall under the policy. She provided the example that the Taste of Lafayette was considered "entertainment" and other types of similar events and said this issue was derived from larger cities that typically receive box tickets. Mayor Tatzin felt it would be helpful to receive clarification on the Citizen of the Year dinner and other related events, and Ms. Subramanian agreed to follow-up and believed an argument could be made these are not considered "entertainment".

ACTION: It was M/S/C (Anderson/Andersson) to adopt Resolution 2009-18. Vote: 4-0-1 (Ayes: Tatzin, Andersson, Anduri, Anderson; Noes: None; Absent: Federighi).

12. COUNCIL/COMMISSION REPORTS

A. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.

Mayor Tatzin said Vice Mayor Andersson attended the ABAG meeting in his place. Vice Mayor Andersson said he would distribute notes from the meeting.

Mayor Tatzin reported that LAFCO was conducting municipal service reviews which require evaluation of all cities and special districts in each County.

B. **Don Tatzin, Mayor**
Comment Letter on the East Bay Municipal Utility District's Proposed Water Supply Management Plan (WSMP 2040)
Recommendation: Authorize Mayor to send letter to EBMUD on the Proposed Water Supply Management Plan (WSMP 2040).

ACTION: The City Council authorized the Mayor to send a letter to EBMUD on the Proposed Water Supply Management Plan (WSMP 2040).

13. WRITTEN COMMUNICATIONS

A. E-mail from Tom Kelly, KyotoUSA, requesting Council support for SB363 (Hancock), a bill to create a low interest loan fund for the installation of solar panels on the State's public schools.
Recommendation: Discuss and direct staff.

ACTION: It was M/S/C (Andersson/Anderson) to receive and file. Vote: 3-0-1-1 (Ayes: Tatzin, Andersson, Anderson; Noes: None: Abstained: Anduri; Absent: Federighi).

14. ADJOURNMENT

The City Council adjourned at 9:45 p.m. to the next regular City Council Meeting on May 11, 2009

APPROVED:

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Don Tatzin, Mayor

ATTEST:

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Joanne Robbins, City Clerk